

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

YUSEF BUTLER,)	
)	
Movant,)	
)	
v.)	CV420-183
)	CR418-254
UNITED STATES OF)	
AMERICA,)	
)	
Respondent.)	

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which no objections have been filed.¹ CR418-254, doc. 76; CV420-183, doc. 13. Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Butler's 28 U.S.C. § 2255 Motion is **DISMISSED**. CR418-254, doc. 39; CV420-183, doc. 1. The Government's Motion to Dismiss that Motion is **DISMISSED** as moot.

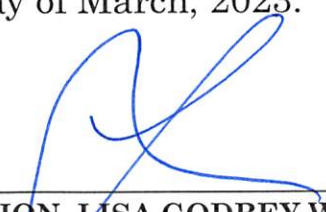
¹ The Report and Recommendation was also returned as undeliverable. CR418-254, doc. 77; CV420-183, doc. 14. Butler, therefore, appears to have failed to comply with the Local Rules' requirement "to apprise the Court of any address change." L.R. 11.1. His noncompliance with Local Rule 11.1 provides an alternative basis for dismissal. *Cf.* Fed. R. Civ. P. 41(b).

CR418-254, doc. 56; CV420-183, doc. 10. Civil action CV420-183 is **CLOSED**.

Further, a prisoner seeking relief under 28 U.S.C. § 2255 must obtain a certificate of appealability (“COA”) before appealing the denial of his application for writ of habeas corpus. 28 U.S.C. § 2253(c)(1)(B). This Court “must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” Rule 11(a) to the Rules Governing Section 2255 Proceedings. This Court should grant a COA only if the prisoner makes a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). For the reasons set forth in the Report and Recommendation, and in consideration of the standards enunciated in *Slack v. McDaniel*, 529 U.S. 473, 482-84 (2000), movant has failed to make the requisite showing. Accordingly, a COA is **DENIED** in this case.² Moreover, because there are no non-frivolous issues to raise on appeal, an appeal would not be taken in good faith. Accordingly, movant is not entitled to appeal *in forma pauperis*. See 28 U.S.C. § 1915(a)(3).

² “If the court denies a certificate, [a party] may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22.” Rule 11(a) to the Rules Governing Section 2255 Proceedings.

SO ORDERED this 16 day of March, 2023.



**HON. LISA GODBEY WOOD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA**